



2009 BILL

4/14/09

Today

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1 AN ACT *to repeal* 460.04 (3), 460.04 (4), 460.05 (3), 460.14 (4) and 460.15 (2); *to*
2 *renumber and amend* 15.407 (7), 460.01 (1), 460.01 (2), 460.03, 460.04 (1),
3 460.06, 460.10 and 460.15 (1); *to amend* 15.08 (1m) (b), 146.81 (1) (hp), 146.997
4 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1) (ar) 1., 440.03 (13) (b) 38., 440.08 (2)
5 (a) 46r., chapter 460 (title), 460.01 (3), 460.01 (4), 460.02, 460.04 (title), 460.04
6 (2) (intro.), (a), (b) and (e), 460.05 (title), 460.05 (1) (intro.), 460.05 (1) (c), 460.05
7 (1) (e), 460.05 (1) (g), 460.05 (2), 460.07 (1), 460.07 (2) (intro.), 460.07 (2) (c),
8 460.07 (2) (d), 460.09, 460.11, 460.12 (1), (2), (3), (4) and (5) (b), 460.13, 460.14
9 (1), 460.14 (2) (intro.), 460.14 (2) (a), 460.14 (2) (b), 460.14 (2) (e), 460.14 (2) (h),
10 460.14 (2m) (intro.), 460.14 (3), 460.17, 895.48 (1m) (a) (intro.) and 2. and 908.03
11 (6m) (a); and *to create* 15.405 (6r) (a) 2., 460.01 (1g), 460.03 (1m) (c), 460.03
12 (2m), 460.04 (1m), 460.04 (2) (f), 460.04 (2) (g), 460.08, 460.095 and 460.10 (1)
13 (b) of the statutes; **relating to:** changes to the regulation of massage therapy

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- 1 and bodywork, creating the Massage Therapy and Bodywork Therapy
2 Examining Board, and granting rule-making authority.
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Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the regulation of massage therapists and bodyworkers.

Under current law, a person may be certified as a massage therapist or bodyworker by the Department of Regulation and Licensing (department). The department is served in an advisory capacity by the Massage Therapy and Bodywork Council, which reviews and may comment on any rules proposed by the department. The council consists of seven members who are certified as massage therapists or bodyworkers.

The bill creates a Massage Therapy and Bodywork Therapy Examining Board (board) in the department and transfers rule-making powers to the board. The bill directs the board to license, not certify, persons who fulfill the requirements for licensure as massage therapists or bodyworker therapists. The bill also permits the board to grant a temporary license to practice massage therapy or bodywork therapy for a period not to exceed six months, and requires the board to establish requirements for temporary licensure by rule.

This bill changes uses of the term, "massage therapy or bodywork," to "massage therapy or bodywork therapy," and changes uses of the term, "bodyworker," to "bodywork therapist."

The bill requires one of the seven members of the board to be a representative of a massage therapy or bodywork therapy school approved by the Educational Approval Board, and one member of the board to be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members of the board may be affiliated with a massage therapy or bodywork therapy school or program. The bill also requires one member of the board to be a member of the public.

Current law prohibits a person who is not certified by the department from designating himself or herself as a massage therapist or bodyworker or using any title that represents that he or she is certified. With one exception noted below, this bill permits persons who are exempt from the licensing requirement to use the terms, "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice. The bill also creates the following two new exemptions from the licensing requirement:

1. A person who manipulates only the soft tissue of the hands, feet, and ears. Persons who fall under this exemption may not represent or imply that their services are massage therapy or bodywork therapy.

2. A person whose practice involves the use of touch or touch and movement to assist and bring body awareness to his or her clients and who is recognized by a professional organization or credentialing association after that person has demonstrated an adequate level of training and competency.

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Under current law, an applicant for certification must have passed an examination offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination administered by the National Commission for Certifying Agencies. This bill requires an applicant for licensure to achieve a passing grade on a nationally administered entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the board. The bill also requires all applicants for a license to pass an examination on state laws and rules governing massage therapy and bodywork therapy. The bill requires the board to prepare the state examination. The bill further requires massage therapy and bodywork therapy schools in Wisconsin to provide and require as a prerequisite to graduation the completion of a course on the state laws and rules and to administer, require as a prerequisite to graduation, and grade the state examination.

Under current law, there are no requirements governing massage therapy or bodywork therapy instructors in Wisconsin. This bill requires instructors teaching courses in anatomy, physiology, kinesiology, and pathology at a school of massage therapy or bodywork therapy to have completed two years of post-secondary education and training or to have professional training and two years of experience in a health-related field. The bill also requires instructors teaching courses in the theory and practice of massage therapy or bodywork therapy at a school of massage therapy or bodywork therapy to be licensed as a massage therapist or bodywork therapist and either two years as a practicing professional or formal education and training as a massage therapy or bodywork therapy instructor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:
2 15.08 (**1m**) (b) The public members of the chiropractic examining board, the
3 dentistry examining board, the hearing and speech examining board, the medical
4 examining board, perfusionists examining council, respiratory care practitioners
5 examining council and council on physician assistants, the board of nursing, the
6 massage therapy and bodywork therapy examining board, the nursing home
7 administrator examining board, the veterinary examining board, the optometry
8 examining board, the pharmacy examining board, the marriage and family therapy,
9 professional counseling, and social work examining board, and the psychology

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1 examining board shall not be engaged in any profession or occupation concerned with
2 the delivery of physical or mental health care.

3 **SECTION 2.** 15.405 (6r) (a) 2. of the statutes is created to read:

4 15.405 (**6r**) (a) 2. One public member.

5 **SECTION 3.** 15.407 (7) of the statutes is renumbered 15.405 (6r), and 15.405 (6r)
6 (a), (b) (intro.), 2. and 3., as renumbered, are amended to read:

7 15.405 (**6r**) ~~MASSAGE THERAPY AND BODYWORK COUNCIL~~ THERAPY EXAMINING BOARD.

8 (a) There is created a massage therapy and bodywork ~~council~~ therapy examining
9 board in the department of regulation and licensing, ~~serving the department in an~~
10 ~~advisory capacity.~~ The ~~council~~ examining board shall consist of the following 7
11 members, appointed for 4-year terms, who are:

12 1. Six massage therapists or bodyworkers certified bodywork therapists
13 licensed under ch. 460 and who have engaged in the practice of massage therapy or
14 bodywork therapy for at least 2 years preceding appointment. One member
15 appointed under this subdivision shall be a representative of a massage therapy or
16 bodywork therapy school approved by the educational approval board under s. 38.50.
17 One member appointed under this subdivision shall be a representative of a massage
18 therapy or bodywork therapy program offered by a technical college in this state. No
19 other members appointed under this subdivision shall be directly or indirectly
20 affiliated with a massage therapy or bodywork therapy school or program.

21 (b) (intro.) In appointing members under par. (a), the governor shall ensure, to
22 the maximum extent practicable, that the membership of the ~~council~~ examining
23 board is diverse, based on all of the following factors:

24 2. Affiliation and nonaffiliation with a professional association for the practice
25 of massage therapy or bodywork therapy.

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1 3. Professional associations with which massage therapists or ~~bodyworkers~~
2 bodywork therapists in this state are affiliated.

3 **SECTION 4.** 146.81 (1) (hp) of the statutes is amended to read:

4 146.81 (1) (hp) A massage therapist or ~~bodyworker~~ certified bodywork
5 therapist licensed under ch. 460.

6 **SECTION 5.** 146.997 (1) (d) 13. of the statutes is amended to read:

7 146.997 (1) (d) 13. A massage therapist or ~~bodyworker~~ bodywork therapist
8 issued a certificate licensed under ch. 460.

9 **SECTION 6.** 180.1901 (1m) (ag) of the statutes is amended to read:

10 180.1901 (1m) (ag) The ~~department of regulation and licensing~~ massage
11 therapy and bodywork therapy examining board under ch. 460.

12 **SECTION 7.** 252.15 (1) (ar) 1. of the statutes is amended to read:

13 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
14 not include a massage therapist or ~~bodyworker~~ bodywork therapist ~~issued a~~
15 ~~certificate~~ licensed under ch. 460.

16 **SECTION 8.** 440.03 (13) (b) 38. of the statutes is amended to read:

17 440.03 (13) (b) 38. Massage therapist or ~~bodyworker~~ bodywork therapist.

18 **SECTION 9.** 440.08 (2) (a) 46r. of the statutes, as affected by 2007 Wisconsin Act
19 20, is amended to read:

20 440.08 (2) (a) 46r. Massage therapist or ~~bodyworker~~ bodywork therapist:
21 March 1 of each odd-numbered year.

22 **SECTION 10.** Chapter 460 (title) of the statutes is amended to read:

23 **CHAPTER 460**

24 **MASSAGE THERAPY AND BODYWORK THERAPY**

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1 **SECTION 11.** 460.01 (1) of the statutes is renumbered 460.01 (2m) and amended
2 to read:

3 460.01 (2m) “Certificate License holder” means a person granted a certificate
4 license under this chapter.

5 **SECTION 12.** 460.01 (1g) of the statutes is created to read:

6 460.01 (1g) “Adjunctive therapy” means any of the following:

7 (a) The use of a device that simulates or enhances a manual action.

8 (b) The application of water, lubricants, or other nonprescription topical agents
9 to the skin.

10 (c) The application of heat or cold to the skin in the absence of an
11 electromagnetic device.

12 **SECTION 13.** 460.01 (2) of the statutes is renumbered 460.01 (1r) and amended
13 to read:

14 460.01 (1r) “Council Examining Board” means the massage therapy and
15 bodywork ~~council~~ therapy examining board.

16 **SECTION 14.** 460.01 (3) of the statutes is amended to read:

17 460.01 (3) “Manual action” includes holding, positioning, rocking, kneading,
18 compressing, decompressing, gliding, or percussing the soft tissue of the human body
19 or applying a passive range of motion to the human body without joint mobilization
20 or manipulation.

21 **SECTION 15.** 460.01 (4) of the statutes is amended to read:

22 460.01 (4) “Massage therapy or bodywork therapy” means the science and
23 healing art that uses manual actions and adjunctive therapies to palpate and
24 manipulate the soft tissue of the human body, in order to improve circulation, reduce
25 tension, relieve soft tissue pain, or increase flexibility, ~~and~~. “Massage therapy or

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1 bodywork therapy" includes determining whether ~~massage therapy or bodywork is~~
2 manual actions and adjunctive therapies are appropriate or contraindicated, or
3 whether a referral to another health care practitioner is appropriate. "Massage
4 therapy or bodywork therapy" does not include making a medical, physical therapy,
5 or chiropractic diagnosis.

6 **SECTION 16.** 460.02 of the statutes is amended to read:

7 **460.02 Certificate License required.** Except as provided in s. 460.03, no
8 person may provide massage therapy or bodywork therapy, designate himself or
9 herself as a massage therapist or ~~bodyworker~~ bodywork therapist, or use or assume
10 the title "massage therapist and ~~bodyworker~~ bodywork therapist" or "massage
11 therapist" or "~~bodyworker~~ bodywork therapist" or any title that includes "massage
12 therapist," "bodywork therapist," or "bodyworker," or append to the person's name
13 the letters "M.T.," "R.M.T.," "L.M.T.," "C.M.T.," ~~"B.W."~~ ^{strike quote} "B.T.," "B.W.," "L.B.W.,"
14 "R.B.W.," ^{plain} or "C.B.W.," or use any other title or designation that represents or may
15 tend to represent that he or she is ~~certified~~ licensed under this chapter, unless the
16 person is ~~certified~~ licensed under this chapter.

17 **SECTION 17.** 460.03 of the statutes is renumbered 460.03 (1m) and amended
18 to read:

19 460.03 (1m) (intro.) A ~~certificate~~ license under this chapter is not required for
20 any of the following:

21 (a) A person holding a license, permit, registration, or certification granted by
22 this state or the federal government who engages in a practice of massage therapy
23 or bodywork therapy within the scope of his or her license, permit, registration, or
24 certification and who does not imply that he or she is ~~certified~~ licensed under this
25 chapter. A person who is exempt from licensure under this subsection may use the

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1 terms “bodywork,” “bodyworker,” and “bodywork therapy” to identify his or her
2 practice.

3 (b) A person who is authorized to practice massage therapy or bodywork
4 therapy in another state or country and is providing a consultation to or
5 demonstration with a certificate license holder. A person who is exempt from
6 licensure under this subsection may use the terms “bodywork,” “bodyworker,” and
7 “bodywork therapy” to identify his or her practice.

8 **SECTION 18.** 460.03 (1m) (c) of the statutes is created to read:

9 460.03 (1m) (c) A person who manipulates only the soft tissues of the hands,
10 feet, or ears of the human body, provided that the services are not represented or
11 implied to be massage therapy or bodywork therapy.

12 **SECTION 19.** 460.03 (2m) of the statutes is created to read:

13 460.03 (2m) (a) A person who does any of the following and who satisfies the
14 requirements of par. (b):

15 1. Uses touch, words, and directed movement to deepen a client’s awareness
16 of his or her existing patterns of movement and to suggest to the client new patterns
17 of movement.

18 2. Uses touch to affect the energy systems or acupoints of the human body.

19 3. Uses touch and movement education to effect change in the structure of the
20 body while engaged in the practice of structural integration.

21 (b) The person is recognized by or meets the established standards of either a
22 professional organization or credentialing association that recognizes a person in a
23 practice after that person demonstrates an adequate level of training and
24 competency and adherence to ethical standards. In this paragraph, “practice” means
25 rolfing structural integration, the rolf method of structural integration, the rolf

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1 institute's rolf movement integration, hellerwork, the feldenkrais method, the trager
2 approach, body-mind centering, polarity, polarity therapy, polarity bodywork
3 therapy, and reiki.

4 (c) A person who is exempt from licensure under this subsection may use the
5 terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her
6 practice.

7 **SECTION 20.** 460.04 (title) of the statutes is amended to read:

8 **460.04 (title) Duties of ~~department~~ examining board.**

9 **SECTION 21.** 460.04 (1) of the statutes is renumbered 460.05 (4) and amended
10 to read:

11 460.05 (4) The ~~department shall~~ examining board may assign a unique
12 ~~certificate~~ license number to each person ~~certified~~ license under this chapter.

13 **SECTION 22.** 460.04 (1m) of the statutes is created to read:

14 460.04 (1m) The examining board shall prepare an examination on state laws
15 and administrative rules governing massage therapy or bodywork therapy.

16 **SECTION 23.** 460.04 (2) (intro.), (a), (b) and (e) of the statutes are amended to
17 read:

18 460.04 (2) (intro.) The ~~department~~ examining board shall promulgate rules
19 that establish all of the following:

20 (a) Standards that govern the professional conduct of ~~certificate~~ license holders
21 in practicing massage therapy or bodywork therapy. The standards shall prohibit
22 a ~~certificate~~ license holder from having sexual contact or sexual intercourse with a
23 client.

24 (b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)
25 1. Rules promulgated under this paragraph shall require the training program to

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1 meet the requirements under s. 460.095 and to consist of at least 600 classroom
2 hours.

3 (e) A requirement that an applicant for a ~~certificate~~ license under this chapter
4 submit evidence satisfactory to the ~~department~~ examining board that the applicant
5 has current proficiency in the use of an automated external defibrillator achieved
6 through instruction provided by an individual, organization, or institution of higher
7 education approved under s. 46.03 (38) to provide such instruction.

8 **SECTION 24.** 460.04 (2) (f) of the statutes is created to read:

9 460.04 (2) (f) Requirements to be satisfied by a person seeking a temporary
10 license under s. 460.08. The rules promulgated under this subsection shall require
11 the person to be a graduate of a massage therapy or bodywork therapy school or
12 program and may require the holder of a temporary license to make disclosures to
13 clients and to practice under the supervision of a massage therapist or bodywork
14 therapist licensed under this chapter.

15 **SECTION 25.** 460.04 (2) (g) of the statutes is created to read:

16 460.04 (2) (g) A requirement that an applicant for a license under this chapter
17 pass an examination on state laws and administrative rules governing massage
18 therapy and bodywork therapy.

19 **SECTION 26.** 460.04 (3) of the statutes is repealed.

20 **SECTION 27.** 460.04 (4) of the statutes is repealed.

21 **SECTION 28.** 460.05 (title) of the statutes is amended to read:

22 **460.05 (title) Certification Licensure of massage therapists or**
23 **bodyworkers bodywork therapists.**

24 **SECTION 29.** 460.05 (1) (intro.) of the statutes is amended to read:

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1 460.05 (1) (intro.) The ~~department~~ examining board shall grant a ~~certificate~~
2 license as a massage therapist or ~~bodyworker~~ bodywork therapist to a person who
3 satisfies all of the following:

4 **SECTION 30.** 460.05 (1) (c) of the statutes is amended to read:

5 460.05 (1) (c) The person submits an application for the ~~certificate~~ license to
6 the ~~department~~ examining board on a form provided by the ~~department~~ examining
7 board.

8 **SECTION 31.** 460.05 (1) (e) of the statutes is amended to read:

9 460.05 (1) (e) Except as provided in sub. (2), the person submits evidence
10 satisfactory to the ~~department~~ examining board that he or she has done all of the
11 following:

12 1. Graduated from a school of massage therapy or bodywork therapy approved
13 by the educational approval board under s. 38.50 that meets the requirements under
14 s. 460.095 or completed a training program approved by the ~~department~~ examining
15 board under the rules promulgated under s. 460.04 (2) (b).

16 2. Completed at least 6 classroom hours in the laws of this state and rules of
17 the ~~department~~ examining board relating to the practice of massage therapy or
18 bodywork therapy in a course of instruction approved by the ~~department~~ examining
19 board.

20 **SECTION 32.** 460.05 (1) (g) of the statutes is amended to read:

21 460.05 (1) (g) The person submits evidence satisfactory to the ~~department~~
22 examining board that he or she has in effect malpractice liability insurance coverage
23 in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
24 occurrences in one year.

25 **SECTION 33.** 460.05 (2) of the statutes is amended to read:

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1 460.05 (2) The ~~department~~ examining board may waive a requirement
2 specified in sub. (1) (e) if a person establishes, to the satisfaction of the ~~department~~
3 examining board, that he or she has education, training, or other experience that is
4 substantially equivalent to the requirement.

5 **SECTION 34.** 460.05 (3) of the statutes is repealed.

6 **SECTION 35.** 460.06 of the statutes is renumbered 460.06 (intro.) and amended
7 to read:

8 **460.06 Examinations.** (intro.) The ~~department~~ examining board may not
9 grant a ~~certificate~~ license under this chapter unless the applicant ~~passes~~ achieves a
10 passing grade on the national certification following examinations:

11 (1) A nationally administered, entry-level competency examination for
12 therapeutic massage and bodywork therapy that is offered by the National
13 Certification Board for Therapeutic Massage and Bodywork or an examination
14 relating to the practice of massage therapy or bodywork that is administered by a
15 national board that is accredited by the National Commission for Certifying
16 Agencies meets generally accepted psychometric principles and standards or a
17 substantially equivalent examination approved by the department examining
18 board.

19 (2) ~~The department shall promulgate rules that also require an applicant to~~
20 ~~pass an examination on state laws and administrative rules governing massage~~
21 ~~therapy or bodywork~~ therapy required under s. 460.04 (2) (g).

22 **SECTION 36.** 460.07 (1) of the statutes is amended to read:

23 460.07 (1) Each person who is ~~certified~~ licensed under this chapter shall
24 conspicuously display the ~~certificate~~ license in the place of business where he or she

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1 practices massage therapy or bodywork therapy so that the ~~certificate~~ license can
2 easily be seen and read.

3 **SECTION 37.** 460.07 (2) (intro.) of the statutes is amended to read:

4 460.07 (2) (intro.) ~~The renewal dates for certificates granted under this chapter~~
5 ~~are specified under s. 440.08 (2) (a).~~ Renewal applications shall be submitted to the
6 department on a form provided by the department on or before the applicable
7 renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

8 **SECTION 38.** 460.07 (2) (c) of the statutes is amended to read:

9 460.07 (2) (c) Evidence satisfactory to the department examining board that
10 the applicant has in effect malpractice liability insurance coverage in an amount that
11 is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one
12 year.

13 **SECTION 39.** 460.07 (2) (d) of the statutes is amended to read:

14 460.07 (2) (d) Evidence satisfactory to the department examining board that
15 the applicant has current proficiency in the use of an automated external
16 defibrillator achieved through instruction provided by an individual, organization,
17 or institution of higher education approved under s. 46.03 (38) to provide such
18 instruction.

19 **SECTION 40.** 460.08 of the statutes is created to read:

20 **460.08 Temporary license.** The examining board may grant a temporary
21 license for a period not to exceed 6 months to an applicant who satisfies the
22 requirements established in the rules under s. 460.04 (2) (f). A temporary license
23 may not be renewed.

24 **SECTION 41.** 460.09 of the statutes is amended to read:

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1 **460.09 Reciprocal certificate.** Upon application and payment of the fee
2 specified in s. 440.05 (2), the ~~department~~ examining board shall grant a massage
3 therapist or ~~bodyworker certificate~~ bodywork therapist license to a person who holds
4 a similar ~~certificate~~ license in another state or territory of the United States or
5 another country if the ~~department~~ examining board determines that the
6 requirements for receiving the ~~certificate~~ license in the other state, territory, or
7 country are substantially equivalent to the requirements under s. 460.05.

8 **SECTION 42.** 460.095 of the statutes is created to read:

9 **460.095 Massage therapy and bodywork therapy school, training**
10 **program, and instructor requirements.** Each massage therapy or bodywork
11 therapy school in this state and each massage therapy or bodywork therapy training
12 program offered in this state located shall do all of the following:

13 (1) Provide and require as a prerequisite to graduation completion of a course
14 of instruction on state laws and regulations applicable to massage therapy and
15 bodywork therapy.

16 (2) Administer, score, and require as a prerequisite to graduation, the
17 examination required under s. 460.06 (2).

18 (3) Ensure that each instructor hired by the school or training program on or
19 after the effective date of this subsection [LRB inserts date], to teach courses in
20 anatomy, physiology, kinesiology, and pathology has at least one of the following:

21 (a) Professional training and 2 years of experience in a health-related field.

22 (b) Two years of post-secondary education and training.

23 (4) Ensure that each instructor hired by the school or training program on or
24 after the effective date of this subsection [LRB inserts date], to teach courses in

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1 theory and the practice of massage therapy or bodywork therapy is licensed under
2 this chapter and has at least one of the following:

3 (a) Two years experience as a practicing professional.

4 (b) Formal education and training as a massage therapy or bodywork therapy
5 instructor.

6 **SECTION 43.** 460.10 of the statutes is renumbered 460.10 (1) (intro.) and
7 amended to read:

8 460.10 (1) (intro.) The ~~department~~ examining board may promulgate rules
9 establishing requirements all of the following:

10 (a) Requirements and procedures for a certificate license holder to complete
11 continuing education programs or courses of study to qualify for renewal of his or her
12 certificate license. The rules promulgated under this paragraph may not require a
13 license holder to complete more than 24 hours of continuing education program or
14 courses of study in order to qualify for renewal of his or her license.

15 (2) The department examining board may waive all or part of any requirement
16 established in rules promulgated under ~~this section~~ sub. (1) (a) if it determines that
17 prolonged illness, disability, or other exceptional circumstances have prevented a
18 certificate license holder from completing the requirement.

19 **SECTION 44.** 460.10 (1) (b) of the statutes is created to read:

20 460.10 (1) (b) Qualifications applicable to providers of continuing education
21 programs and courses required under par. (a).

22 **SECTION 45.** 460.11 of the statutes is amended to read:

23 **460.11 Practice requirements.** (1) A certificate license holder may not
24 practice massage therapy or bodywork therapy on a client unless the ~~certificate~~

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1 license holder first obtains the informed consent of the client and has informed the
2 client that he or she may withdraw the consent at any time.

3 (2) A ~~certificate~~ license holder shall keep confidential any information that a
4 client in confidence gives to the ~~certificate~~ license holder and any other information
5 that the ~~certificate~~ license holder obtains about a client in the course of practicing
6 massage therapy or bodywork therapy that a reasonable person in the client's
7 position would want kept confidential, unless the information is otherwise required
8 by law to be disclosed or the client specifically authorizes the disclosure of the
9 information.

10 (3) A ~~certificate~~ license holder may not, whether for compensation or not,
11 practice massage therapy or bodywork therapy for a sexually oriented business, as
12 defined by the ~~department~~ examining board by rule.

13 **SECTION 46.** 460.12 (1), (2), (3), (4) and (5) (b) of the statutes are amended to
14 read:

15 **460.12 Duty to make reports.** (1) A ~~certificate~~ license holder shall submit
16 a report to the ~~department~~ examining board if he or she has reasonable cause to
17 believe that another ~~certificate~~ license holder has committed a crime relating to
18 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual
19 intercourse with a client. If the report relates to sexual contact or sexual intercourse
20 with a client, the report may not identify the client unless the client has provided
21 written consent for disclosure of this information.

22 (2) The ~~department~~ examining board may use a report made under sub. (1) as
23 the basis for an investigation under s. 460.14 (1). If, after an investigation, the
24 ~~department~~ examining board has reasonable cause to believe that a ~~certificate~~
25 license holder has committed a crime, the ~~department~~ examining board shall report

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1 the belief to the district attorney for the county in which the crime, in the opinion of
2 the ~~department~~ examining board, occurred.

3 (3) If, after an investigation, the ~~department~~ examining board determines that
4 a report submitted under sub. (1) is without merit, the ~~department~~ examining board
5 shall remove the report from the record of the ~~certificate~~ license holder who is the
6 subject of the report.

7 (4) All reports and records made from reports under sub. (1) and maintained
8 by the examining board, the ~~department~~, district attorneys, and other persons,
9 officials, and institutions shall be confidential and are exempt from disclosure under
10 s. 19.35 (1). Information regarding the identity of a client with whom a ~~certificate~~
11 license holder is suspected of having sexual contact or sexual intercourse shall not
12 be disclosed by persons who have received or have access to a report or record unless
13 disclosure is consented to in writing by the client. The report of information under
14 sub. (1) and the disclosure of a report or record under this subsection does not violate
15 any person's responsibility for maintaining the confidentiality of patient health care
16 records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and
17 records may be disclosed only to the examining board, the ~~department~~, and the
18 appropriate staff of a district attorney or a law enforcement agency within this state
19 for purposes of investigation or prosecution.

20 (5) (b) A ~~certificate~~ license holder shall submit a written report to the
21 ~~department~~ examining board if he or she is convicted of a felony or misdemeanor, or
22 is found to have committed a violation, in this state or elsewhere, and if the
23 circumstances of the felony, misdemeanor, or violation substantially relate to the
24 practice of massage therapy or bodywork therapy. The report shall identify the date,
25 place, and nature of the conviction or finding and shall be submitted within 30 days

BILL**SECTION 46**

1 after the entry of the judgment of conviction or the judgment finding that he or she
2 committed the violation. If the report is submitted by mail, the report is considered
3 to be submitted on the date that it is mailed.

4 **SECTION 47.** 460.13 of the statutes is amended to read:

5 **460.13 Advertising.** ~~A certificate~~ Except as provided in s. 460.03 (1m) (a) and
6 (b), a license holder may not advertise that he or she practices massage therapy or
7 bodywork therapy unless the advertisement includes ~~his or her certificate number~~
8 and a statement that the ~~certificate~~ license holder is a “~~certified~~ licensed massage
9 therapist and ~~bodyworker~~ bodywork therapist” or “~~certified~~ licensed massage
10 therapist” or “~~certified bodyworker~~ licensed bodywork therapist.”

11 **SECTION 48.** 460.14 (1) of the statutes is amended to read:

12 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the ~~department~~
13 examining board may make investigations and conduct hearings to determine
14 whether a violation of this chapter or any rule promulgated under this chapter has
15 occurred.

16 **SECTION 49.** 460.14 (2) (intro.) of the statutes is amended to read:

17 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
18 ~~department~~ examining board may reprimand a ~~certificate~~ license holder or deny,
19 limit, suspend, or revoke a ~~certificate~~ license under this chapter if it finds that the
20 applicant or ~~certificate~~ license holder has done any of the following:

21 **SECTION 50.** 460.14 (2) (a) of the statutes is amended to read:

22 460.14 (2) (a) Made a material misstatement in an application for a ~~certificate~~
23 license or for renewal of a ~~certificate~~ license.

24 **SECTION 51.** 460.14 (2) (b) of the statutes is amended to read:

BILL

1 460.14 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an
2 offense the circumstances of which substantially relate to the practice of massage
3 therapy or bodywork therapy.

4 **SECTION 52.** 460.14 (2) (e) of the statutes is amended to read:

5 460.14 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage
6 therapy or bodywork therapy while his or her ability to practice was impaired by
7 alcohol or other drugs.

8 **SECTION 53.** 460.14 (2) (h) of the statutes is amended to read:

9 460.14 (2) (h) Engaged in conduct while practicing massage therapy or
10 bodywork therapy that jeopardizes the health, safety, or welfare of a client or that
11 evidences a lack of knowledge of, inability to apply, or the negligent application of,
12 principles or skills of massage therapy or bodywork therapy.

13 **SECTION 54.** 460.14 (2m) (intro.) of the statutes is amended to read:

14 460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
15 ~~department~~ examining board shall revoke a ~~certificate~~ license under this chapter if
16 the ~~certificate~~ license holder is convicted of any of the following:

17 **SECTION 55.** 460.14 (3) of the statutes is amended to read:

18 460.14 (3) The ~~department~~ examining board may restore a ~~certificate~~ license
19 that has been suspended or revoked on such terms and conditions as the ~~department~~
20 examining board may deem appropriate.

21 **SECTION 56.** 460.14 (4) of the statutes is repealed.

22 **SECTION 57.** 460.15 (1) of the statutes is renumbered 460.15 and amended to
23 read:

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SECTION 57

1 **460.15 Penalties Penalty.** ~~Except as provided in sub. (2), any~~ Any person who
2 violates this chapter or any rule promulgated under this chapter shall forfeit not
3 more than \$1,000 for each violation.

4 **SECTION 58.** 460.15 (2) of the statutes is repealed.

5 **SECTION 59.** 460.17 of the statutes is amended to read:

6 **460.17 Local regulation.** A city, village, town, or county may not enact an
7 ordinance that regulates the practice of massage therapy or bodywork therapy by a
8 person who is issued a certificate licensed by the department examining board under
9 this chapter. No provision of any ordinance enacted by a city, village, town, or county
10 that is in effect before February 1, 1999, and that relates to the practice of massage
11 therapy or bodywork therapy, may be enforced against a person who is issued a
12 certificate licensed by the department examining board under this chapter.

13 **SECTION 60.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

14 895.48 (1m) (a) (intro.) Except as provided in par. (b), any physician or athletic
15 trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed
16 under ch. 447, emergency medical technician licensed under s. 256.15, first
17 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,
18 registered nurse licensed under ch. 441, or a massage therapist or ~~bodyworker~~ issued
19 a certificate bodywork therapist licensed under ch. 460 who renders voluntary health
20 care to a participant in an athletic event or contest sponsored by a nonprofit
21 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001
22 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655
23 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that
24 care if all of the following conditions exist:

BILL

1 2. The physician, athletic trainer, chiropractor, dentist, emergency medical
2 technician, first responder, physician assistant, registered nurse, massage therapist
3 or ~~bodyworker~~ bodywork therapist does not receive compensation for the health care,
4 other than reimbursement for expenses.

5 **SECTION 61.** 908.03 (6m) (a) of the statutes is amended to read:

6 908.03 (6m) (a) *Definition.* In this subsection, “health care provider” means
7 a massage therapist or ~~bodyworker~~ bodywork therapist licensed
8 under ch. 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447,
9 a physician assistant licensed under ch. 448, or a health care provider as defined in
10 s. 655.001 (8).

11 **SECTION 62. Nonstatutory provisions.**

12 (1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding
13 section 460.05 (1) (e) of the statutes, as affected by this act, and section 460.05 (1) (f)
14 of the statutes, the massage therapy and bodywork therapy examining board shall
15 grant a license under section 460.05 of the statutes, as affected by this act, to a person
16 who no later than the first day of the 13th month beginning after the effective date
17 of this paragraph provides sufficient evidence to the massage therapy and bodywork
18 therapy examining board that the person satisfies one of the following requirements:

19 (a) The person was actively engaged in the practice of massage therapy or
20 bodywork therapy by practicing for an average of 10 hours per week for at least 10
21 years.

22 (b) The person passed a nationally administered entry-level competency
23 assessment examination that meets generally accepted psychometric principles and
24 standards.

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SECTION 62

(c) The person was actively engaged in the practice of massage therapy or bodywork therapy by practicing for an average of 10 hours per week for at least 3 years and successfully completed a 200-hour licensure program approved by the examining board.

(d) At least 180 days before the effective date of this paragraph, the person graduated from a massage therapy or bodywork therapy training program that consisted of at least 600 hours of training.

SECTION 63. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

Kuczenski, Tracy

From: Patricia Holman [patiholman@wi.rr.com]
Sent: Tuesday, April 28, 2009 8:29 AM
To: Kuczenski, Tracy; Miller, Steve
Cc: laura sebastian; mppurcell@aol.com
Subject: Email from LRB Website

Attachments: lettrtolegis.rtf; ATT10888488.txt



lettrtolegis.rtf (11 KB)
ATT10888488.txt (66 B)

Dear Ms. Kuczenski & Mr. Miller,

Laura Sebastian & I are Wisconsin legislative co-reps for the Feldenkrais Guild® of North America. Within the past few months, Ms.

Kuczenski drafted the massage therapy bill, LRB-0273/3. Our profession is identified in the exemptions portion of the bill.

Our organization has questions regarding the LRB's use of trademarked and proper names in the drafting of this bill. Please see attached letter for specific concerns and please get back to us to clarify the LRB's mandates to omit capitalizations and registered trademarks from these written rules.

Also, I would like to forward this request for clarification from the other coauthors of the bill, but cannot identify their names from the initials listed on page one of the draft.

Thank you very much,
Patricia Holman, GCFP
3612 N. 79th Street
Milwaukee, WI 53222

April 28th, 2009
Representative David Cullen
Room 216 North
State Capitol
PO BOX 8952
Madison, WI 53708

Dear Representative Cullen,

In several days or within the next week or so, the LRB bill 0273/3, Massage Therapy bill, will be circulated to you for review. My profession supports the massage therapists in their efforts to clarify standards for their members and we hope they are successful, but my group has some minor concerns regarding the exemption language. Let me give you a bit about my background.

I am a Guild Certified Feldenkrais practitioner^{CM} of Somatic Education and have been practicing this work for over 18 years. I have also acted in the capacity of Wisconsin legislative representative of the Feldenkrais Guild[®] of North America for 2 decades and was deeply involved in the 2001 Wisconsin Act 74. At that time, my profession as well as other unrelated bodywork modalities were working on exemption language should a practice act ever come out of the process. In that instance it never came to pass.

I also served on the Massage therapy registration act's educational approval board as citizen member for 2 years.

As the current LRB 0273/3 is a practice act, all non-related touch therapies have been working hard to insure we are exempted from this bill. We have attended many meetings and worked hard on language in cooperation with the Wisconsin massage therapy group as well as the national organizations of the mentioned exempted groups. But there are two issues in the final draft that we cannot support. Certain phrasing & grammatical structure errors have reappeared in the final draft that was not agreed upon by our members.

Regarding Section 19 (page 8 line 19-20) 460.03

'Uses touch & movement education to effect change in the structure of the body while engaged in the practice of structural integration'

Structural integration practitioners, in communication with us through their representative Libby Eaton, have removed the term 'movement education' from the phrasing and reinserted 'education' only. Rolfing & structural integration are primarily a soft-tissue modality, and not an educational one as primary methodology. Those of us having attended many meetings with the massage therapists are curious how this got reinserted. I'm sure there are simple explanations, but as such, we cannot overlook this detail. Simple language errors like this can eventually

morph into problems for other exempt modalities as time goes by and other massage therapy bills are written in remaining states. Errors that can evolve into more serious and hard to make changes in successive drafts or re-writes under future administrations.

Regarding Section 19 (page 8, line 25 & page 9, line 1-3)

...in this paragraph, practice means rolfing structural integration, the rolf method of structural integration, the rolf institute's rolf movement integration, hellerwork, the feldenkrais method, the trager approach, body-mind centering, polarity, polarity therapy, polarity bodywork therapy & reiki.

The Feldenkrais Method, Hellerwork, Rolfing and any related Rolfing words, and the Trager approach all are last names of the individuals who developed the methods, and as such are proper names and should be capitalized. I am strongly opposed to having the massage group rename these respective professions for expediency sake. In addition, The Feldenkrais Method, is a registered trademarked term, (as is the Rolf Institute of Structural Integration, Body-Mind Centering, and the Trager approach) and should be recognized as such in the final language of the bill as The Feldenkrais Method®. As these exemptions are currently written, I ask you withhold your support for this bill until these changes are made. Our member group will be attending any public hearings to let our opinions be known. The exemption language needs these adjustment and clarifications.

Respectively yours,



State of Wisconsin
2009 - 2010 LEGISLATURE

15
LRB-027314

TKK:kjf:rs

RMH
d-note

2009 BILL

5/4/09

pp 8 & 9

Regen

1 AN ACT *to repeal* 460.04 (3), 460.04 (4), 460.05 (3), 460.14 (4) and 460.15 (2); *to*
2 *renumber and amend* 15.407 (7), 460.01 (1), 460.01 (2), 460.03, 460.04 (1),
3 460.06, 460.10 and 460.15 (1); *to amend* 15.08 (1m) (b), 146.81 (1) (hp), 146.997
4 (1) (d) 13., 180.1901 (1m) (ag), 252.15 (1) (ar) 1., 440.03 (13) (b) 38., 440.08 (2)
5 (a) 46r., chapter 460 (title), 460.01 (3), 460.01 (4), 460.02, 460.04 (title), 460.04
6 (2) (intro.), (a), (b) and (e), 460.05 (title), 460.05 (1) (intro.), 460.05 (1) (c), 460.05
7 (1) (e), 460.05 (1) (g), 460.05 (2), 460.07 (1), 460.07 (2) (intro.), 460.07 (2) (c),
8 460.07 (2) (d), 460.09, 460.11, 460.12 (1), (2), (3), (4) and (5) (b), 460.13, 460.14
9 (1), 460.14 (2) (intro.), 460.14 (2) (a), 460.14 (2) (b), 460.14 (2) (e), 460.14 (2) (h),
10 460.14 (2m) (intro.), 460.14 (3), 460.17, 895.48 (1m) (a) (intro.) and 2. and 908.03
11 (6m) (a); and *to create* 15.405 (6r) (a) 2., 460.01 (1g), 460.03 (1m) (c), 460.03
12 (2m), 460.04 (1m), 460.04 (2) (f), 460.04 (2) (g), 460.08, 460.095 and 460.10 (1)
13 (b) of the statutes; **relating to:** changes to the regulation of massage therapy

BILL

- 1 and bodywork, creating the Massage Therapy and Bodywork Therapy
2 Examining Board, and granting rule-making authority.
-

Analysis by the Legislative Reference Bureau

This bill makes a number of changes to the regulation of massage therapists and bodyworkers.

Under current law, a person may be certified as a massage therapist or bodyworker by the Department of Regulation and Licensing (department). The department is served in an advisory capacity by the Massage Therapy and Bodywork Council, which reviews and may comment on any rules proposed by the department. The council consists of seven members who are certified as massage therapists or bodyworkers.

The bill creates a Massage Therapy and Bodywork Therapy Examining Board (board) in the department and transfers rule-making powers to the board. The bill directs the board to license, not certify, persons who fulfill the requirements for licensure as massage therapists or bodyworker therapists. The bill also permits the board to grant a temporary license to practice massage therapy or bodywork therapy for a period not to exceed six months, and requires the board to establish requirements for temporary licensure by rule.

This bill changes uses of the term, "massage therapy or bodywork," to "massage therapy or bodywork therapy," and changes uses of the term, "bodyworker," to "bodywork therapist."

The bill requires one of the seven members of the board to be a representative of a massage therapy or bodywork therapy school approved by the Educational Approval Board, and one member of the board to be a representative of a massage therapy or bodywork therapy program offered by a technical college in this state. No other members of the board may be affiliated with a massage therapy or bodywork therapy school or program. The bill also requires one member of the board to be a member of the public.

Current law prohibits a person who is not certified by the department from designating himself or herself as a massage therapist or bodyworker or using any title that represents that he or she is certified. With one exception noted below, this bill permits persons who are exempt from the licensing requirement to use the terms, "bodywork," "bodyworker," and "bodywork therapy" to identify his or her practice. The bill also creates the following two new exemptions from the licensing requirement:

1. A person who manipulates only the soft tissue of the hands, feet, and ears. Persons who fall under this exemption may not represent or imply that their services are massage therapy or bodywork therapy.
2. A person whose practice involves the use of touch or touch and movement to assist and bring body awareness to his or her clients and who is recognized by a professional organization or credentialing association after that person has demonstrated an adequate level of training and competency.

BILL

Under current law, an applicant for certification must have passed an examination offered by the National Certification Board for Therapeutic Massage and Bodywork or an examination administered by the National Commission for Certifying Agencies. This bill requires an applicant for licensure to achieve a passing grade on a nationally administered entry-level competency examination for therapeutic massage and bodywork therapy that meets generally accepted psychometric principles and standards or a substantially equivalent examination approved by the board. The bill also requires all applicants for a license to pass an examination on state laws and rules governing massage therapy and bodywork therapy. The bill requires the board to prepare the state examination. The bill further requires massage therapy and bodywork therapy schools in Wisconsin to provide and require as a prerequisite to graduation the completion of a course on the state laws and rules and to administer, require as a prerequisite to graduation, and grade the state examination.

Under current law, there are no requirements governing massage therapy or bodywork therapy instructors in Wisconsin. This bill requires instructors teaching courses in anatomy, physiology, kinesiology, and pathology at a school of massage therapy or bodywork therapy to have completed two years of post-secondary education and training or to have professional training and two years of experience in a health-related field. The bill also requires instructors teaching courses in the theory and practice of massage therapy or bodywork therapy at a school of massage therapy or bodywork therapy to be licensed as a massage therapist or bodywork therapist and either two years as a practicing professional or formal education and training as a massage therapy or bodywork therapy instructor.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 15.08 (1m) (b) of the statutes is amended to read:
- 2 15.08 (1m) (b) The public members of the chiropractic examining board, the
- 3 dentistry examining board, the hearing and speech examining board, the medical
- 4 examining board, perfusionists examining council, respiratory care practitioners
- 5 examining council and council on physician assistants, the board of nursing, the
- 6 massage therapy and bodywork therapy examining board, the nursing home
- 7 administrator examining board, the veterinary examining board, the optometry
- 8 examining board, the pharmacy examining board, the marriage and family therapy,
- 9 professional counseling, and social work examining board, and the psychology

BILL**SECTION 1**

1 examining board shall not be engaged in any profession or occupation concerned with
2 the delivery of physical or mental health care.

3 **SECTION 2.** 15.405 (6r) (a) 2. of the statutes is created to read:

4 15.405 (**6r**) (a) 2. One public member.

5 **SECTION 3.** 15.407 (7) of the statutes is renumbered 15.405 (6r), and 15.405 (6r)

6 (a), (b) (intro.), 2. and 3., as renumbered, are amended to read:

7 15.405 (**6r**) ~~MASSAGE THERAPY AND BODYWORK COUNCIL~~ THERAPY EXAMINING BOARD.

8 (a) There is created a massage therapy and bodywork ~~council~~ therapy examining
9 board in the department of regulation and licensing, ~~serving the department in an~~
10 ~~advisory capacity.~~ The ~~council~~ examining board shall consist of the following 7
11 members, appointed for 4-year terms, who are:

12 1. Six massage therapists or ~~bodyworkers~~ certified bodywork therapists
13 licensed under ch. 460 and who have engaged in the practice of massage therapy or
14 bodywork therapy for at least 2 years preceding appointment. One member
15 appointed under this subdivision shall be a representative of a massage therapy or
16 bodywork therapy school approved by the educational approval board under s. 38.50.
17 One member appointed under this subdivision shall be a representative of a massage
18 therapy or bodywork therapy program offered by a technical college in this state. No
19 other members appointed under this subdivision shall be directly or indirectly
20 affiliated with a massage therapy or bodywork therapy school or program.

21 (b) (intro.) In appointing members under par. (a), the governor shall ensure, to
22 the maximum extent practicable, that the membership of the ~~council~~ examining
23 board is diverse, based on all of the following factors:

24 2. Affiliation and nonaffiliation with a professional association for the practice
25 of massage therapy or bodywork therapy.

BILL

1 3. Professional associations with which massage therapists or ~~bodyworkers~~
2 bodywork therapists in this state are affiliated.

3 **SECTION 4.** 146.81 (1) (hp) of the statutes is amended to read:

4 146.81 (1) (hp) A massage therapist or ~~bodyworker~~ certified bodywork
5 therapist licensed under ch. 460.

6 **SECTION 5.** 146.997 (1) (d) 13. of the statutes is amended to read:

7 146.997 (1) (d) 13. A massage therapist or ~~bodyworker~~ bodywork therapist
8 ~~issued a certificate~~ licensed under ch. 460.

9 **SECTION 6.** 180.1901 (1m) (ag) of the statutes is amended to read:

10 180.1901 (1m) (ag) The ~~department of regulation and licensing~~ massage
11 therapy and bodywork therapy examining board under ch. 460.

12 **SECTION 7.** 252.15 (1) (ar) 1. of the statutes is amended to read:

13 252.15 (1) (ar) 1. A person or entity that is specified in s. 146.81 (1), but does
14 not include a massage therapist or ~~bodyworker~~ bodywork therapist ~~issued a~~
15 ~~certificate~~ licensed under ch. 460.

16 **SECTION 8.** 440.03 (13) (b) 38. of the statutes is amended to read:

17 440.03 (13) (b) 38. Massage therapist or ~~bodyworker~~ bodywork therapist.

18 **SECTION 9.** 440.08 (2) (a) 46r. of the statutes, as affected by 2007 Wisconsin Act
19 20, is amended to read:

20 440.08 (2) (a) 46r. Massage therapist or ~~bodyworker~~ bodywork therapist:
21 March 1 of each odd-numbered year.

22 **SECTION 10.** Chapter 460 (title) of the statutes is amended to read:

23 **CHAPTER 460**

24 **MASSAGE THERAPY AND BODYWORK THERAPY**

BILL**SECTION 11**

SECTION 11. 460.01 (1) of the statutes is renumbered 460.01 (2m) and amended to read:

460.01 (2m) “~~Certificate~~ License holder” means a person granted a certificate license under this chapter.

SECTION 12. 460.01 (1g) of the statutes is created to read:

460.01 (1g) “Adjunctive therapy” means any of the following:

(a) The use of a device that simulates or enhances a manual action.

(b) The application of water, lubricants, or other nonprescription topical agents to the skin.

(c) The application of heat or cold to the skin in the absence of an electromagnetic device.

SECTION 13. 460.01 (2) of the statutes is renumbered 460.01 (1r) and amended to read:

460.01 (1r) “~~Council~~ Examining Board” means the massage therapy and bodywork ~~council~~ therapy examining board.

SECTION 14. 460.01 (3) of the statutes is amended to read:

460.01 (3) “Manual action” includes holding, positioning, rocking, kneading, compressing, decompressing, gliding, or percussing the soft tissue of the human body or applying a passive range of motion to the human body without joint mobilization or manipulation.

SECTION 15. 460.01 (4) of the statutes is amended to read:

460.01 (4) “Massage therapy or bodywork therapy” means the science and healing art that uses manual actions and adjunctive therapies to palpate and manipulate the soft tissue of the human body, in order to improve circulation, reduce tension, relieve soft tissue pain, or increase flexibility, ~~and~~. “Massage therapy or

BILL

1 bodywork therapy” includes determining whether ~~massage therapy or bodywork is~~
2 manual actions and adjunctive therapies are appropriate or contraindicated, or
3 whether a referral to another health care practitioner is appropriate. “Massage
4 therapy or bodywork therapy” does not include making a medical, physical therapy,
5 or chiropractic diagnosis.

6 **SECTION 16.** 460.02 of the statutes is amended to read:

7 **460.02 Certificate License required.** Except as provided in s. 460.03, no
8 person may provide massage therapy or bodywork therapy, designate himself or
9 herself as a massage therapist or ~~bodyworker~~ bodywork therapist, or use or assume
10 the title “massage therapist and ~~bodyworker~~ bodywork therapist” or “massage
11 therapist” or “~~bodyworker~~ bodywork therapist” or any title that includes “massage
12 therapist,” “bodywork therapist,” or “bodyworker,” or append to the person’s name
13 the letters “M.T.,” “R.M.T.,” “L.M.T.,” “C.M.T.,” “B.W.,” “B.T.,” “B.W.,” “L.B.W.,”
14 “R.B.W.,” or “C.B.W.,” or use any other title or designation that represents or may
15 tend to represent that he or she is ~~certified~~ licensed under this chapter, unless the
16 person is ~~certified~~ licensed under this chapter.

17 **SECTION 17.** 460.03 of the statutes is renumbered 460.03 (1m) and amended
18 to read:

19 **460.03 (1m)** (intro.) A ~~certificate~~ license under this chapter is not required for
20 any of the following:

21 (a) A person holding a license, permit, registration, or certification granted by
22 this state or the federal government who engages in a practice of massage therapy
23 or bodywork therapy within the scope of his or her license, permit, registration, or
24 certification and who does not imply that he or she is ~~certified~~ licensed under this
25 chapter. A person who is exempt from licensure under this subsection may use the

BILL

SECTION 17

1 terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her
2 practice.

3 (b) A person who is authorized to practice massage therapy or bodywork
4 therapy in another state or country and is providing a consultation to or
5 demonstration with a certificate license holder. A person who is exempt from
6 licensure under this subsection may use the terms "bodywork," "bodyworker," and
7 "bodywork therapy" to identify his or her practice.

8 **SECTION 18.** 460.03 (1m) (c) of the statutes is created to read:

9 460.03 (1m) (c) A person who manipulates only the soft tissues of the hands,
10 feet, or ears of the human body, provided that the services are not represented or
11 implied to be massage therapy or bodywork therapy.

12 **SECTION 19.** 460.03 (2m) of the statutes is created to read:

13 460.03 (2m) (a) A person who does any of the following and who satisfies the
14 requirements of par. (b):

15 1. Uses touch, words, and directed movement to deepen a client's awareness
16 of his or her existing patterns of movement and to suggest to the client new patterns
17 of movement.

18 2. Uses touch to affect the energy systems or acupoints of the human body.

19 3. Uses touch and movement education to effect change in the structure of the
20 body while engaged in the practice of structural integration.

21 (b) The person is recognized by or meets the established standards of either a
22 professional organization or credentialing association that recognizes a person in a
23 practice after that person demonstrates an adequate level of training and
24 competency and adherence to ethical standards. In this paragraph, "practice" means

25 rolfing structural integration, the rolf method of structural integration, the rolf

BILL

1 institute's rolf movement integration, hellerwork, the feldenkrais method, the trager
2 approach, body-mind centering, polarity, polarity therapy, polarity bodywork
3 therapy, and reiki.

4 (c) A person who is exempt from licensure under this subsection may use the
5 terms "bodywork," "bodyworker," and "bodywork therapy" to identify his or her
6 practice.

7 **SECTION 20.** 460.04 (title) of the statutes is amended to read:

8 **460.04 (title) Duties of department examining board.**

9 **SECTION 21.** 460.04 (1) of the statutes is renumbered 460.05 (4) and amended
10 to read:

11 460.05 (4) The ~~department shall~~ examining board may assign a unique
12 ~~certificate~~ license number to each person ~~certified~~ license under this chapter.

13 **SECTION 22.** 460.04 (1m) of the statutes is created to read:

14 460.04 (1m) The examining board shall prepare an examination on state laws
15 and administrative rules governing massage therapy or bodywork therapy.

16 **SECTION 23.** 460.04 (2) (intro.), (a), (b) and (e) of the statutes are amended to
17 read:

18 460.04 (2) (intro.) The ~~department~~ examining board shall promulgate rules
19 that establish all of the following:

20 (a) Standards that govern the professional conduct of ~~certificate~~ license holders
21 in practicing massage therapy or bodywork therapy. The standards shall prohibit
22 a ~~certificate~~ license holder from having sexual contact or sexual intercourse with a
23 client.

24 (b) Criteria for approving a training program for purposes of s. 460.05 (1) (e)
25 1. Rules promulgated under this paragraph shall require the training program to

BILL**SECTION 23**

1 meet the requirements under s. 460.095 and to consist of at least 600 classroom
2 hours.

3 (e) A requirement that an applicant for a ~~certificate~~ license under this chapter
4 submit evidence satisfactory to the ~~department~~ examining board that the applicant
5 has current proficiency in the use of an automated external defibrillator achieved
6 through instruction provided by an individual, organization, or institution of higher
7 education approved under s. 46.03 (38) to provide such instruction.

8 **SECTION 24.** 460.04 (2) (f) of the statutes is created to read:

9 460.04 (2) (f) Requirements to be satisfied by a person seeking a temporary
10 license under s. 460.08. The rules promulgated under this subsection shall require
11 the person to be a graduate of a massage therapy or bodywork therapy school or
12 program and may require the holder of a temporary license to make disclosures to
13 clients and to practice under the supervision of a massage therapist or bodywork
14 therapist licensed under this chapter.

15 **SECTION 25.** 460.04 (2) (g) of the statutes is created to read:

16 460.04 (2) (g) A requirement that an applicant for a license under this chapter
17 pass an examination on state laws and administrative rules governing massage
18 therapy and bodywork therapy.

19 **SECTION 26.** 460.04 (3) of the statutes is repealed.

20 **SECTION 27.** 460.04 (4) of the statutes is repealed.

21 **SECTION 28.** 460.05 (title) of the statutes is amended to read:

22 **460.05 (title) ~~Certification~~ Licensure of massage therapists or**
23 **~~bodyworkers~~ bodywork therapists.**

24 **SECTION 29.** 460.05 (1) (intro.) of the statutes is amended to read:

BILL

1 460.05 (1) (intro.) The ~~department~~ examining board shall grant a ~~certificate~~
2 license as a massage therapist or ~~bodyworker~~ bodywork therapist to a person who
3 satisfies all of the following:

4 **SECTION 30.** 460.05 (1) (c) of the statutes is amended to read:

5 460.05 (1) (c) The person submits an application for the ~~certificate~~ license to
6 the ~~department~~ examining board on a form provided by the ~~department~~ examining
7 board.

8 **SECTION 31.** 460.05 (1) (e) of the statutes is amended to read:

9 460.05 (1) (e) Except as provided in sub. (2), the person submits evidence
10 satisfactory to the ~~department~~ examining board that he or she has done all of the
11 following:

12 1. Graduated from a school of massage therapy or bodywork therapy approved
13 by the educational approval board under s. 38.50 that meets the requirements under
14 s. 460.095 or completed a training program approved by the ~~department~~ examining
15 board under the rules promulgated under s. 460.04 (2) (b).

16 2. Completed at least 6 classroom hours in the laws of this state and rules of
17 the ~~department~~ examining board relating to the practice of massage therapy or
18 bodywork therapy in a course of instruction approved by the ~~department~~ examining
19 board.

20 **SECTION 32.** 460.05 (1) (g) of the statutes is amended to read:

21 460.05 (1) (g) The person submits evidence satisfactory to the ~~department~~
22 examining board that he or she has in effect malpractice liability insurance coverage
23 in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all
24 occurrences in one year.

25 **SECTION 33.** 460.05 (2) of the statutes is amended to read:

BILL**SECTION 33**

1 460.05 (2) The department examining board may waive a requirement
2 specified in sub. (1) (e) if a person establishes, to the satisfaction of the department
3 examining board, that he or she has education, training, or other experience that is
4 substantially equivalent to the requirement.

5 **SECTION 34.** 460.05 (3) of the statutes is repealed.

6 **SECTION 35.** 460.06 of the statutes is renumbered 460.06 (intro.) and amended
7 to read:

8 **460.06 Examinations.** (intro.) The department examining board may not
9 grant a ~~certificate~~ license under this chapter unless the applicant ~~passes~~ achieves a
10 passing grade on the national certification following examinations:

11 (1) A nationally administered, entry-level competency examination for
12 therapeutic massage and bodywork therapy that is offered by the National
13 Certification Board for Therapeutic Massage and Bodywork or an examination
14 relating to the practice of massage therapy or bodywork that is administered by a
15 national board that is accredited by the National Commission for Certifying
16 Agencies meets generally accepted psychometric principles and standards or a
17 substantially equivalent examination approved by the department examining
18 board.

19 (2) The department shall promulgate rules that also require an applicant to
20 pass an examination on state laws and administrative rules governing massage
21 therapy or bodywork therapy required under s. 460.04 (2) (g).

22 **SECTION 36.** 460.07 (1) of the statutes is amended to read:

23 460.07 (1) Each person who is ~~certified~~ licensed under this chapter shall
24 conspicuously display the ~~certificate~~ license in the place of business where he or she

BILL

practices massage therapy or bodywork therapy so that the ~~certificate~~ license can easily be seen and read.

SECTION 37. 460.07 (2) (intro.) of the statutes is amended to read:

460.07 (2) (intro.) ~~The renewal dates for certificates granted under this chapter are specified under s. 440.08 (2) (a).~~ Renewal applications shall be submitted to the department on a form provided by the department on or before the applicable renewal date specified under s. 440.08 (2) (a) and shall include all of the following:

SECTION 38. 460.07 (2) (c) of the statutes is amended to read:

460.07 (2) (c) Evidence satisfactory to the ~~department~~ examining board that the applicant has in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

SECTION 39. 460.07 (2) (d) of the statutes is amended to read:

460.07 (2) (d) Evidence satisfactory to the ~~department~~ examining board that the applicant has current proficiency in the use of an automated external defibrillator achieved through instruction provided by an individual, organization, or institution of higher education approved under s. 46.03 (38) to provide such instruction.

SECTION 40. 460.08 of the statutes is created to read:

460.08 Temporary license. The examining board may grant a temporary license for a period not to exceed 6 months to an applicant who satisfies the requirements established in the rules under s. 460.04 (2) (f). A temporary license may not be renewed.

SECTION 41. 460.09 of the statutes is amended to read:

BILL**SECTION 41**

1 **460.09 Reciprocal certificate.** Upon application and payment of the fee
2 specified in s. 440.05 (2), the department examining board shall grant a massage
3 therapist or ~~bodyworker certificate~~ bodywork therapist license to a person who holds
4 a similar ~~certificate~~ license in another state or territory of the United States or
5 another country if the department examining board determines that the
6 requirements for receiving the ~~certificate~~ license in the other state, territory, or
7 country are substantially equivalent to the requirements under s. 460.05.

8 **SECTION 42.** 460.095 of the statutes is created to read:

9 **460.095 Massage therapy and bodywork therapy school, training**
10 **program, and instructor requirements.** Each massage therapy or bodywork
11 therapy school in this state and each massage therapy or bodywork therapy training
12 program offered in this state located shall do all of the following:

13 (1) Provide and require as a prerequisite to graduation completion of a course
14 of instruction on state laws and regulations applicable to massage therapy and
15 bodywork therapy.

16 (2) Administer, score, and require as a prerequisite to graduation, the
17 examination required under s. 460.06 (2).

18 (3) Ensure that each instructor hired by the school or training program on or
19 after the effective date of this subsection [LRB inserts date], to teach courses in
20 anatomy, physiology, kinesiology, and pathology has at least one of the following:

21 (a) Professional training and 2 years of experience in a health-related field.

22 (b) Two years of post-secondary education and training.

23 (4) Ensure that each instructor hired by the school or training program on or
24 after the effective date of this subsection [LRB inserts date], to teach courses in

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theory and the practice of massage therapy or bodywork therapy is licensed under this chapter and has at least one of the following:

- (a) Two years experience as a practicing professional.
- (b) Formal education and training as a massage therapy or bodywork therapy instructor.

SECTION 43. 460.10 of the statutes is renumbered 460.10 (1) (intro.) and amended to read:

460.10 (1) (intro.) The ~~department~~ examining board may promulgate rules establishing ~~requirements~~ all of the following:

(a) Requirements and procedures for a ~~certificate~~ license holder to complete continuing education programs or courses of study to qualify for renewal of his or her ~~certificate~~ license. The rules promulgated under this paragraph may not require a license holder to complete more than 24 hours of continuing education program or courses of study in order to qualify for renewal of his or her license.

(2) The ~~department~~ examining board may waive all or part of any requirement established in rules promulgated under ~~this section~~ sub. (1) (a) if it determines that prolonged illness, disability, or other exceptional circumstances have prevented a ~~certificate~~ license holder from completing the requirement.

SECTION 44. 460.10 (1) (b) of the statutes is created to read:

460.10 (1) (b) Qualifications applicable to providers of continuing education programs and courses required under par. (a).

SECTION 45. 460.11 of the statutes is amended to read:

460.11 Practice requirements. (1) A ~~certificate~~ license holder may not practice massage therapy or bodywork therapy on a client unless the ~~certificate~~

BILL

SECTION 45

1 license holder first obtains the informed consent of the client and has informed the
2 client that he or she may withdraw the consent at any time.

3 (2) A ~~certificate~~ license holder shall keep confidential any information that a
4 client in confidence gives to the ~~certificate~~ license holder and any other information
5 that the ~~certificate~~ license holder obtains about a client in the course of practicing
6 massage therapy or bodywork therapy that a reasonable person in the client's
7 position would want kept confidential, unless the information is otherwise required
8 by law to be disclosed or the client specifically authorizes the disclosure of the
9 information.

10 (3) A ~~certificate~~ license holder may not, whether for compensation or not,
11 practice massage therapy or bodywork therapy for a sexually oriented business, as
12 defined by the ~~department~~ examining board by rule.

13 **SECTION 46.** 460.12 (1), (2), (3), (4) and (5) (b) of the statutes are amended to
14 read:

15 **460.12 Duty to make reports.** (1) A ~~certificate~~ license holder shall submit
16 a report to the ~~department~~ examining board if he or she has reasonable cause to
17 believe that another ~~certificate~~ license holder has committed a crime relating to
18 prostitution under ss. 944.30 to 944.34 or has had sexual contact or sexual
19 intercourse with a client. If the report relates to sexual contact or sexual intercourse
20 with a client, the report may not identify the client unless the client has provided
21 written consent for disclosure of this information.

22 (2) The ~~department~~ examining board may use a report made under sub. (1) as
23 the basis for an investigation under s. 460.14 (1). If, after an investigation, the
24 ~~department~~ examining board has reasonable cause to believe that a ~~certificate~~
25 license holder has committed a crime, the ~~department~~ examining board shall report

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1 the belief to the district attorney for the county in which the crime, in the opinion of
2 the department examining board, occurred.

3 (3) If, after an investigation, the department examining board determines that
4 a report submitted under sub. (1) is without merit, the department examining board
5 shall remove the report from the record of the certificate license holder who is the
6 subject of the report.

7 (4) All reports and records made from reports under sub. (1) and maintained
8 by the examining board, the department, district attorneys, and other persons,
9 officials, and institutions shall be confidential and are exempt from disclosure under
10 s. 19.35 (1). Information regarding the identity of a client with whom a certificate
11 license holder is suspected of having sexual contact or sexual intercourse shall not
12 be disclosed by persons who have received or have access to a report or record unless
13 disclosure is consented to in writing by the client. The report of information under
14 sub. (1) and the disclosure of a report or record under this subsection does not violate
15 any person's responsibility for maintaining the confidentiality of patient health care
16 records, as defined in s. 146.81 (4) and as required under s. 146.82. Reports and
17 records may be disclosed only to the examining board, the department, and the
18 appropriate staff of a district attorney or a law enforcement agency within this state
19 for purposes of investigation or prosecution.

20 (5) (b) A certificate license holder shall submit a written report to the
21 department examining board if he or she is convicted of a felony or misdemeanor, or
22 is found to have committed a violation, in this state or elsewhere, and if the
23 circumstances of the felony, misdemeanor, or violation substantially relate to the
24 practice of massage therapy or bodywork therapy. The report shall identify the date,
25 place, and nature of the conviction or finding and shall be submitted within 30 days

BILL**SECTION 46**

1 after the entry of the judgment of conviction or the judgment finding that he or she
2 committed the violation. If the report is submitted by mail, the report is considered
3 to be submitted on the date that it is mailed.

4 **SECTION 47.** 460.13 of the statutes is amended to read:

5 **460.13 Advertising.** ~~A certificate~~ Except as provided in s. 460.03 (1m) (a) and
6 (b), a license holder may not advertise that he or she practices massage therapy or
7 bodywork therapy unless the advertisement includes ~~his or her certificate number~~
8 ~~and a statement that the certificate~~ license holder is a “~~certified~~ licensed massage
9 ~~therapist and bodyworker~~ bodywork therapist” or “~~certified~~ licensed massage
10 ~~therapist~~” or “~~certified bodyworker~~ licensed bodywork therapist.”

11 **SECTION 48.** 460.14 (1) of the statutes is amended to read:

12 460.14 (1) Subject to the rules promulgated under s. 440.03 (1), the ~~department~~
13 examining board may make investigations and conduct hearings to determine
14 whether a violation of this chapter or any rule promulgated under this chapter has
15 occurred.

16 **SECTION 49.** 460.14 (2) (intro.) of the statutes is amended to read:

17 460.14 (2) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
18 ~~department~~ examining board may reprimand a ~~certificate~~ license holder or deny,
19 limit, suspend, or revoke a ~~certificate~~ license under this chapter if it finds that the
20 applicant or ~~certificate~~ license holder has done any of the following:

21 **SECTION 50.** 460.14 (2) (a) of the statutes is amended to read:

22 460.14 (2) (a) Made a material misstatement in an application for a ~~certificate~~
23 license or for renewal of a ~~certificate~~ license.

24 **SECTION 51.** 460.14 (2) (b) of the statutes is amended to read:

BILL

1 460.14 (2) (b) Subject to ss. 111.321, 111.322, and 111.335, been convicted of an
2 offense the circumstances of which substantially relate to the practice of massage
3 therapy or bodywork therapy.

4 **SECTION 52.** 460.14 (2) (e) of the statutes is amended to read:

5 460.14 (2) (e) Subject to ss. 111.321, 111.322, and 111.34, practiced massage
6 therapy or bodywork therapy while his or her ability to practice was impaired by
7 alcohol or other drugs.

8 **SECTION 53.** 460.14 (2) (h) of the statutes is amended to read:

9 460.14 (2) (h) Engaged in conduct while practicing massage therapy or
10 bodywork therapy that jeopardizes the health, safety, or welfare of a client or that
11 evidences a lack of knowledge of, inability to apply, or the negligent application of,
12 principles or skills of massage therapy or bodywork therapy.

13 **SECTION 54.** 460.14 (2m) (intro.) of the statutes is amended to read:

14 460.14 (2m) (intro.) Subject to the rules promulgated under s. 440.03 (1), the
15 department examining board shall revoke a certificate license under this chapter if
16 the certificate license holder is convicted of any of the following:

17 **SECTION 55.** 460.14 (3) of the statutes is amended to read:

18 460.14 (3) The department examining board may restore a certificate license
19 that has been suspended or revoked on such terms and conditions as the department
20 examining board may deem appropriate.

21 **SECTION 56.** 460.14 (4) of the statutes is repealed.

22 **SECTION 57.** 460.15 (1) of the statutes is renumbered 460.15 and amended to
23 read:

BILL

SECTION 57

1 **460.15 Penalties Penalty.** ~~Except as provided in sub. (2), any~~ Any person who
2 violates this chapter or any rule promulgated under this chapter shall forfeit not
3 more than \$1,000 for each violation.

4 **SECTION 58.** 460.15 (2) of the statutes is repealed.

5 **SECTION 59.** 460.17 of the statutes is amended to read:

6 **460.17 Local regulation.** A city, village, town, or county may not enact an
7 ordinance that regulates the practice of massage therapy or bodywork therapy by a
8 person who is ~~issued a certificate~~ licensed by the ~~department~~ examining board under
9 this chapter. No provision of any ordinance enacted by a city, village, town, or county
10 that is in effect before February 1, 1999, and that relates to the practice of massage
11 therapy or bodywork therapy, may be enforced against a person who is ~~issued a~~
12 ~~certificate~~ licensed by the ~~department~~ examining board under this chapter.

13 **SECTION 60.** 895.48 (1m) (a) (intro.) and 2. of the statutes are amended to read:

14 895.48 **(1m)** (a) (intro.) Except as provided in par. (b), any physician or athletic
15 trainer licensed under ch. 448, chiropractor licensed under ch. 446, dentist licensed
16 under ch. 447, emergency medical technician licensed under s. 256.15, first
17 responder certified under s. 256.15 (8), physician assistant licensed under ch. 448,
18 registered nurse licensed under ch. 441, or a massage therapist or ~~bodyworker~~ issued
19 ~~a certificate~~ bodywork therapist licensed under ch. 460 who renders voluntary health
20 care to a participant in an athletic event or contest sponsored by a nonprofit
21 corporation, as defined in s. 66.0129 (6) (b), a private school, as defined in s. 115.001
22 (3r), a public agency, as defined in s. 46.856 (1) (b), or a school, as defined in s. 609.655
23 (1) (c), is immune from civil liability for his or her acts or omissions in rendering that
24 care if all of the following conditions exist:

BILL

1 2. The physician, athletic trainer, chiropractor, dentist, emergency medical
2 technician, first responder, physician assistant, registered nurse, massage therapist
3 or ~~bodyworker~~ bodywork therapist does not receive compensation for the health care,
4 other than reimbursement for expenses.

5 **SECTION 61.** 908.03 (6m) (a) of the statutes is amended to read:

6 908.03 **(6m)** (a) *Definition.* In this subsection, "health care provider" means
7 a massage therapist or ~~bodyworker issued a certificate~~ bodywork therapist licensed
8 under ch. 460, a chiropractor licensed under ch. 446, a dentist licensed under ch. 447,
9 a physician assistant licensed under ch. 448, or a health care provider as defined in
10 s. 655.001 (8).

11 **SECTION 62. Nonstatutory provisions.**

12 (1) EXEMPTIONS FROM CERTAIN LICENSURE REQUIREMENTS. Notwithstanding
13 section 460.05 (1) (e) of the statutes, as affected by this act, and section 460.05 (1) (f)
14 of the statutes, the massage therapy and bodywork therapy examining board shall
15 grant a license under section 460.05 of the statutes, as affected by this act, to a person
16 who no later than the first day of the 13th month beginning after the effective date
17 of this paragraph provides sufficient evidence to the massage therapy and bodywork
18 therapy examining board that the person satisfies one of the following requirements:

19 (a) The person was actively engaged in the practice of massage therapy or
20 bodywork therapy by practicing for an average of 10 hours per week for at least 10
21 years.

22 (b) The person passed a nationally administered entry-level competency
23 assessment examination that meets generally accepted psychometric principles and
24 standards.

BILL

SECTION 62

(c) The person was actively engaged in the practice of massage therapy or bodywork therapy by practicing for an average of 10 hours per week for at least 3 years and successfully completed a 200-hour licensure program approved by the examining board.

(d) At least 180 days before the effective date of this paragraph, the person graduated from a massage therapy or bodywork therapy training program that consisted of at least 600 hours of training.

SECTION 63. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

(END)

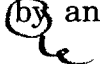
D-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0273/4dn
TKK:kjf:rs

Date

Rep. Berceau: 

Under LRB drafting conventions, proper names are capitalized. This draft capitalizes the following massage therapy practices, identified as proper names in an April 28, 2009, e-mail message, received  and forwarded to your office by myself, from Patricia Holman:

Rolfing Structural Integration

Rolf Method of Structural Integration

Rolf Institute's Rolf Movement Integration

Hellerwork

Feldenkrais Method

Trager Approach

Please let me know if you have any questions or wish to make additional changes.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0273/5dn
TKK:kjf:jf

May 4, 2009

Rep. Berceau:

Under LRB drafting conventions, proper names are capitalized. This draft capitalizes the following massage therapy practices, identified as proper names in an April 28, 2009, e-mail message, received and forwarded to your office by myself, from Patricia Holman:

Rolfing Structural Integration

Rolf Method of Structural Integration

Rolf Institute's Rolf Movement Integration

Hellerwork

Feldenkrais Method

Trager Approach

Please let me know if you have any questions or wish to make additional changes.

Tracy K. Kuczenski
Legislative Attorney
Phone: (608) 266-9867
E-mail: tracy.kuczenski@legis.wisconsin.gov

Kuczenski, Tracy

From: Rieselman, Brian
Sent: Monday, May 11, 2009 9:42 AM
To: Kuczenski, Tracy
Subject: FW: Massage Therapy and Bodywork Therapy Licensing Draft May 6, 2009

Hi Tracy -- looks like these points (below) are now in order -- we'll go with "includes," et al. Could we proceed to a re-draft, rolling these points with anything else I've sent to you?

Thanks,

Brian

From: Krizenesky@aol.com [mailto:Krizenesky@aol.com]
Sent: Monday, May 11, 2009 9:16 AM
To: Rieselman, Brian; Field, Adam; tjf@dewittross.net; Wadd, Jay
Subject: Re: Massage Therapy and Bodywork Therapy Licensing Draft May 6, 2009

Dear Brian, Thank you so much for your help in coordinating the language of our draft with the LRB drafter for the version which will be introduced and for waiting until today to finalize this with them. Please note the following comments in addition to the message which was sent out last week (copied below):

- ✓ **1)** Regarding the use of the word "includes" versus the word "means" in the exemption listings, the intent is to allow the Board to expand the listings via administrative rule beyond what is included in the actual statutes if necessary, thus the word "includes" is preferable to "means".
- ✓ **2)** Please eliminate the word "acupoints" entirely from Section 19 460.03(4) (a) 2.. This would leave that section to read 2. Uses touch to affect the energy systems of the human body.

Regarding the changes to LRB-0273/3dn (Massage Therapy and Bodywork Therapy Licensing) as requested by Ms. Pati Holman. The first, (1) regarding the removal of the word "movement" is fine, with us, as it is language recently agreed upon by the Structural Integration practitioners. The second (2) of her requested changes, regarding capitalizations is also fine. The third (3) is addressed above.

Attorney Kuczinski has expressed concern about inclusion in statutory language of specific expemtped practices by name. This has been done by four of the states that have most recently regulated the practice of massage therapy (Michigan, Colorado, Pennsylvania and Montana, which was signed into law last week. Here is a link to a document which includes a summary and links to the sites of the currently regulated states (43 plus DC).

http://www.amtamassage.org/government/state_laws.html

Sincerely,

Betsy Krizenesky

Betsy Krizenesky, WCMT #53-046
 Wisconsin Certified Massage Therapist
 Wisconsin Massage Licensing Coalition Chair
 American Massage Therapy Association Professional Member Since 1983
 Immediate Past President and Law & Legislation Committee Chair
 Associated Bodywork and Massage Professionals Supporting Member
 Nationally Certified in Therapeutic Massage and Bodywork
325 N. Commercial St., Suite 100
Neenah, WI 54956-2665
920-725-0224
Krizenesky@aol.com

In a message dated 5/6/2009 11:57:55 AM Central Daylight Time, tjf@dewittross.net writes:

5/11/2009

From: Rieselman, Brian [mailto:Brian.Rieselman@legis.wisconsin.gov]
Sent: Wednesday, May 06, 2009 11:48 AM
To: Thomas J. Fonfara; Field, Adam; Kuczenski, Tracy
Subject: some more stuff to consider in our massage bill

Brian Rieselman
Research Assistant
Office of Representative Terese Berceau
Wisconsin Legislature
tel: (608) 266-3784

Hi Tom, Adam and Tracy,

Looks like there are a couple more issues to consider here (please see followup letter from Ms. Holman below). Can we see how Betsy and the massage folks feel about these changes?

Thanks,

Brian

Hello Brian,

Thanks so much for taking the time out of your day to follow-up with our written requests. I have attached the letter I had sent to Representative Berceau regarding the issue of capitalization for exempted modalities as well as the omission of the word 'movement' from the phrase 'movement education'. (1) **(LRB 0273/3, page 8, Section 19. lines 19-20)**

3)Uses touch & movement education to effect change in the structure of the body while engaged in the practice of structural integration

To be changed to:

3)Uses touch & education to effect change in the structure of the body while engaged in the practice of Structural Integration

(2) As well as the change to caps page 8, Section 19, line 25, & page 9 section 19, lines 1-3

...Rolfing Structural Integration, the Rolf Method of Structural Integration, the Rolf's Institute Rolf Movement Integration, Hellerwork, the Feldenkrais Method, the Trager Approach, Body-Mind Centering, Polarity Therapy, Polarity Bodywork Therapy and Reiki.

Brian,

This also brings me to another distinction. The list of exempted modalities is by no means inclusive of all those that exist or will exist as future modalities emerge. This list is basically the modalities that are legislatively active in the state, but to be fair, there will be an increased variety in the future.

(3) As a disclaimer, I would suggest that on page 8, Section 19, lines 24 should be re-phrased to:

...competency and adherence to ethical standards. **In this paragraph, 'practice' includes but is not limited to,**

Rolfing Structural Integration, the Rolf Method of Structural Integration, the Rolf's Institute Rolf Movement Integration, Hellerwork, the Feldenkrais Method, the Trager Approach, Body-Mind Centering, Polarity Therapy, Polarity Bodywork Therapy and Reiki.

Instead of saying,

..competency and adherence to ethical standards. **In this paragraph, 'practice' means,**

Rolfing Structural Integration, the Rolf Method of Structural Integration, the Rolf's Institute Rolf Movement Integration, Hellerwork, the Feldenkrais Method, the Trager Approach, Body-Mind Centering, Polarity Therapy, Polarity Bodywork Therapy and Reiki.

When you get a chance, please send along the rewritten draft of LRB 0273/3.

I'm very happy to know that Rep. Berceau is responsive to our concerns. Please let her know we will give our support to the bill with these changes.

Pati Holman, GCFP

(414)535-7283

From: Rieselman, Brian [mailto:Brian.Rieselman@legis.wisconsin.gov]

Sent: Friday, May 08, 2009 9:15 AM

To: Thomas J. Fonfara; Field, Adam; Wadd, Jay

Subject: "includes, but not limited to"

Regarding the terms "includes, but not limited to."

This term cannot be used in our statutes, I am told by the bill drafter. I asked for alternatives to accomplish the same goal:

"use the broad, inclusive term ("includes") to permit a broader category of practitioners to obtain the exemption from licensure, or use the more restrictive term ("means") to limit the category of practitioners who can obtain the exemption from the licensure requirements."

Let's share this the message folks and see what we can work out.

Recession-proof vacation ideas. [Find free things to do in the U.S.](#)

5/11/2009

Kuczenski, Tracy

From: Rieselman, Brian
Sent: Thursday, April 30, 2009 3:27 PM
To: Field, Adam; Kuczenski, Tracy
Subject: RE: LRB 0273/4 - Massage Therapy Bill

Thanks -- anything else we should do to formally switch this to Rep. Berceau as lead author?

I think we can all talk again about any changes when we hear back from Tom and the Massage folks.

Thanks!

-----Original Message-----

From: Field, Adam
Sent: Thursday, April 30, 2009 2:59 PM
To: Rieselman, Brian
Subject: RE: LRB 0273/4 - Massage Therapy Bill

Brian, that is good on our end.

Adam

Adam R. Field
Office of Rep. Dean Kaufert
55th Assembly District

-----Original Message-----

From: Rieselman, Brian
Sent: Thursday, April 30, 2009 10:31 AM
To: Kuczenski, Tracy; Field, Adam; 'tjf@dewittross.com'
Subject: RE: LRB 0273/4 - Massage Therapy Bill

Adam, let's formally make that change, and work together as we move ahead. Good ?

-----Original Message-----

From: Kuczenski, Tracy
Sent: Thursday, April 30, 2009 10:29 AM
To: Rieselman, Brian; Field, Adam; 'tjf@dewittross.com'
Subject: RE: LRB 0273/4 - Massage Therapy Bill

Thanks for your message, Brian. I don't have Rep. Berceau as the requester on this draft. If Rep. Berceau, and not Rep. Kaufert will be introducing the bill, then yes, I will need to formally make that change (I can keep the same LRB number for the Assembly version).

In the mean time, I will wait until I hear formally from either you or Adam regarding whether to make any changes to either or both bills.

Thanks,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

-----Original Message-----

From: Rieselman, Brian
Sent: Thursday, April 30, 2009 10:04 AM
To: Field, Adam; 'tjff@dewittross.com'
Cc: Kuczenski, Tracy
Subject: RE: LRB 0273/4 - Message Therapy Bill

Hi Tracy, Adam, Tom --

One thing I would like to clarify is that Rep. Berceau is now the lead author of this bill (draft). I would like to work with Adam in all directives related to this draft, and receive related communications first-hand. Please let me know if this needs to be formalized.

This issue seems to have come up a few years ago in previous drafts, before our office became the lead. I tend to agree with our drafter, Tracy, about the removal of the names of these "trademarked" therapies, and a re-draft with more general terms in keeping with statutory precedents. If we can leave these capitalized names out all together that might be best (and instead refer to them by whatever general term best applies, so they are covered). Any reason to not do this?

Tom, it would be helpful if you could see how your clients feel about this -- and I am happy to meet with them (or everyone) to iron this out -- as I understand it, this is just a technical consideration and doesn't substantively change the bill.

Depending on how the massage folks feel, we may wish to proceed with a re-draft with changes Tracy suggests.

Thanks,

Brian

-----Original Message-----

From: Field, Adam
Sent: Thursday, April 30, 2009 9:32 AM
To: 'tjff@dewittross.com'
Cc: Rieselman, Brian
Subject: FW: LRB 0273/4 - Message Therapy Bill

Hi Tom,

Here is the info. I received from the drafter yesterday on the contact she had received on the message therapy bill.

Adam

-----Original Message-----

From: Kuczenski, Tracy
Sent: Tuesday, April 28, 2009 2:50 PM
To: Field, Adam
Subject: Re: LRB 0273/4

Hi Adam -

I received the following email, with attachment, regarding the massage therapy bill this morning. As far as I am aware, this bill has not been introduced, so I am communicating with you rather than with Ms. Holman.

Ms. Holman raises two issues in the attached letter to Rep. Cullen:

1. Whether the word "movement" should precede "education" in section 19 (p. 8, line 19).

I have no opinion on this question.

2. Why terms like "Rolfing," "Hellerwork," "the Feldenkrais Method," "the Trager approach" and related terms are not capitalized in proposed section 460.03 (2m) (b) and why a trademark does not appear after those terms that are "registered trademark" terms.

Regarding the question of trademarks, the LRB does not include trademarks in the statutes. The absence of a trademark in LRB 0273/4 does not reflect a desire to minimize the recognition or distinguishing characteristics accorded to a trademark term, but reflects drafting conventions. I don't believe it would be practical to include trademarks in the statutes, as trademarks are a type of intellectual property that can change with use or disuse over time.

Regarding the use of these particular terms, I have expressed concerns about these terms in drafting notes dated November 7, 2008 and February 2, 2009. In my opinion, these particular terms should not appear in the statutes. None of these terms appear in the dictionary used by LRB editors in their review of proposed legislation. Further, these terms are not defined in the bill itself. Instead, I recommended that the bill include a general reference to exempted therapies and authorize the examining board to identify with particularity those therapies that may be practiced by a person who is not licensed by the examining board. I still believe this would be the more appropriate approach to take to these numerous, disparate, and evolving movement therapies.

Finally, I was not aware that the particular practice methods are named for the individuals who developed the methods; had I known that piece of information, I would have capitalized the names of those persons included in the draft (Rolf, Feldenkrais, Trager), but not "rolfing" or "hellerwork." As a drafting convention, the LRB capitalizes proper names and avoids capitalization elsewhere.

I responded to Ms. Holman's email, and will forward a copy to you immediately after I have sent this message. Please let me know if you would like me to make any changes to the bill, or if you want me to communicate with Ms. Holman directly.

Thank you,
Tracy

Tracy K. Kuczenski
Legislative Attorney
Wisconsin Legislative Reference Bureau
(608) 266-9867
Tracy.Kuczenski@legis.wisconsin.gov

-----Original Message-----
From: Patricia Holman [mailto:patiholman@wi.rr.com]
Sent: Tuesday, April 28, 2009 8:29 AM
To: Kuczenski, Tracy; Miller, Steve
Cc: laura sebastian; mppurcell@aol.com
Subject: Email from LRB Website

Dear Ms. Kuczenski & Mr. Miller,
Laura Sebastian & I are Wisconsin legislative co-reps for the Feldenkrais Guild® of North America. Within the past few months, Ms. Kuczenski drafted the massage therapy bill, LRB-0273/3. Our profession is identified in the exemptions portion of the bill. Our organization has questions regarding the LRB's use of trademarked and proper names in the drafting of this bill. Please see attached letter for specific concerns and please get back to us to clarify the LRB's mandates to omit capitalizations and registered trademarks from these written rules. Also, I would like to forward this request for clarification from the other coauthors of the bill, but cannot identify their names from the initials listed on page one of the draft.

Thank you very much,
Patricia Holman, GCFP
3612 N. 79th Street
Milwaukee, WI 53222